

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN BUSTAMANTE,

No. C 11-3492 SBA (PR)

Plaintiff,

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

v.

SUPERIOR COURT OF CALIFORNIA, et al.,

Defendants.

Plaintiff has filed a motion for appointment of counsel to represent him in this action.

There is no constitutional right to counsel in a civil case unless an indigent litigant may lose his physical liberty if he loses the litigation. See Lassiter v. Dep't of Soc. Servs., 452 U.S. 18, 25 (1981); Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997) (no constitutional right to counsel in § 1983 action), withdrawn in part on other grounds on reh'g en banc, 154 F.3d 952 (9th Cir. 1998) (en banc). The court may ask counsel to represent an indigent litigant under 28 U.S.C. § 1915 only in "exceptional circumstances," the determination of which requires an evaluation of both (1) the likelihood of success on the merits, and (2) the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See id. at 1525; Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). Both of these factors must be viewed together before reaching a decision on a request for counsel under § 1915. See id.

1 The Court is unable to assess at this time whether exceptional circumstances exist which  
2 would warrant seeking volunteer counsel to accept a pro bono appointment. The proceedings are at  
3 an early stage and it is premature for the Court to determine Plaintiff's likelihood of success on the  
4 merits. Moreover, Plaintiff has been able to articulate his claims adequately pro se in light of the  
5 complexity of the issues involved. See Agyeman v. Corrs. Corp. of Am., 390 F.3d 1101, 1103 (9th  
6 Cir. 2004). Accordingly, the request for appointment of counsel is DENIED without prejudice.

7 This Order terminates Docket no. 7.

8 IT IS SO ORDERED.

9 DATED: 2/1/12

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 JOHN BUSTAMATE,

5 Plaintiff,

6 v.

7 SUPERIOR COURT OF CA et al,

8 Defendant.

Case Number: CV11-03492 SBA

**CERTIFICATE OF SERVICE**

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
10 Court, Northern District of California.

11 That on February 1, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
14 located in the Clerk's office.

15 John Bustamante  
16 102247 Pistachio Way  
17 Sacramento, CA 95827

18 Dated: February 1, 2012

19 Richard W. Wieking, Clerk  
20 By: LISA R CLARK, Deputy Clerk  
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